

Appln. No. 10/529,973  
Amendment dated May 25, 2006  
Responsive to Office Action dated August 7, 2006

**AMENDMENT TO THE DRAWINGS**

The attached sheets of drawings include changes to FIGS. 1-13. These sheets, which include FIGS. 1-13, replace the original sheets including FIGS. 1-13.

Attachment: Replacement Sheets

### **REMARKS**

This Amendment is being filed in response to the Office Action dated June 19, 2006. Claims 1-19 are currently pending in the application, all of which stand rejected. Of these, claim 1 is independent. By this Amendment, claims 1-2, 5, 10 and 13-17 are amended. Accordingly, claims 1-19 remain pending in this application. No new matter has been added. Applicants respectfully submit that the amendment has been made without prejudice and solely in order to better clarify the invention and not to limit or narrow the scope of these claims in any way. Applicants respectfully request reconsideration in light of the amendments and comments set forth herein, and respectfully maintain that this application is in condition for allowance.

### **Withdrawal of the Restriction Requirement**

Applicants note with appreciation the withdrawal of the Restriction Requirement mailed on April 26, 2006, and the examination of all claims 1-19.

### **Objection to the Drawings**

In the Office Action, the Examiner objected to the drawings as not including numerals to show each elements of the eyewear. By this Amendment, the figures have been amended to include reference numerals. Whereas the Examiner did not object to the specification, the specification has been amended herein to include the reference numerals in accordance with the drawings amended herein. Accordingly, Applicants respectfully request withdrawal of the objection.

### **Rejection Under 35 U.S.C. §112**

In the Office Action, claims 2, 5, 10, 13 and 15-17 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and

distinctly claim the subject matter which applicant regards as the invention. Particularly, the Examiner objected to “the contour portion” and “the frame.” By this Amendment, claims 2, 5 and 10 have been amended to recite “rear contoured surface” rather than “contour portion”, and claims 13 and 15-17 have been amended to recite “eyewear” rather than “frame”. Applicants respectfully submit that the amendments merely clarify what is being claimed, and do not limit or narrow the scope of the claims in any way.

**Rejection Under 35 U.S.C. §102**

Claims 1, 5-7 and 14-18 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,676,257 to Sheldon et al. (Sheldon) or 6,641,263 to Olney (Olney). Applicants respectfully submit that neither Sheldon nor Olney teaches or suggests independent claim 1 as amended herein.

Claim 1 as amended herein requires a lens mounted in the eyecup as well as a lens mounted in the eyewear. Applicants respectfully maintain that none of the cited prior art, whether taken alone or in combination, teaches or suggests such a dual lens construction where one lens is mounted in a removable eyecup and a second lens is mounted in the eyewear. In addition, applicants respectfully maintain that such a dual lens construction was required by claim 14 as originally filed and that therefore no new search is required. Applicants respectfully submit that Sheldon is directed to polarized swimming goggles having polarized lenses inserted therein in a single piece of eyewear. The polarized lens does not have a rear contoured surface for contacting the wearer’s face, and is not mounted on an eyecup as claimed, having such a rear contoured surface. In contrast, the goggles themselves, in which the polarized lens is inserted, contacts and creates a seal around the wearer’s face. Accordingly, not only does Sheldon fail to teach all the elements of claim 1, but it teaches away from providing an eyecup to attach to the rear of the goggles and

contacting the wearer's face, since that would render the goggles, the invention of Sheldon, superfluous, or at least would require substantial alterations thereto. Therefore, Applicants respectfully submit that Sheldon fails to teach or suggest the invention as claimed.

Applicants respectfully submit that Olney is directed to a removable sealing member attachable to an eyewear. However, Olney fails to teach or suggest "[a]n eyecup for use with eyewear having one or more lenses... the eyecup also comprising one or more lenses mounted therein" as recited in independent claim 1 as amended herein. The sealing member does not include a lens mounted therein, and Olney is thus directed to a single lens eyewear and fails to teach or suggest providing a lens in the removable sealing member.

Claims 1, 2, 5-12 and 19 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,191,364 to Kopfer (Kopfer). Applicants respectfully submit that Kopfer also fails to teach or suggest providing "An eyecup for use with eyewear having one or more lenses... the eyecup also comprising one or more lenses mounted therein" as recited in independent claim 1 as amended herein. Kopfer is also directed to a single lens eyewear having a sealing area for snugly fitting around the eyes of the wearer. These sealing areas do not have lenses mounted therein, nor is there any suggestion for such a modification.

**Rejection Under 35 U.S.C. §103(a)**

Claims 3 and 4 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kopfer. At least for the same reasons set forth above, because Kopfer fails to teach or suggest independent claim 1, from which claims 3 and 4 depend, Applicants respectfully submit that Kopfer fails to render dependent claims 3 and 4 obvious.

At least for the reasons set forth above, Applicants respectfully submit that Sheldon, Olney and Kopfer, taken alone or in combination, fail to anticipate or render obvious the invention as claimed in independent claim 1 and claims 2-19 depending therefrom. In the interest of brevity, the rejection of the dependent claims will not be addressed in detail herein.

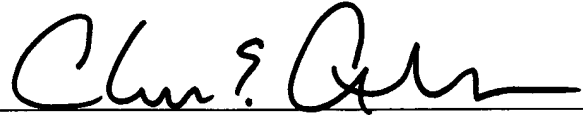
No fee is believed to be due with the filing of this Amendment. Nevertheless, should the Commissioner deem any such fee(s) to be now or hereafter due in connection with this application, authority is given to charge all such fees to Deposit Account No. 19-4709.

Applicants respectfully submit that all outstanding rejections have been addressed and are now either overcome or moot. Applicants further submit that all claims pending in this application are patentable over the prior art. Accordingly, favorable consideration and prompt allowance of this application are respectfully requested.

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In the event that there are any questions, or should additional information be required, please contact Applicants' attorney at the number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles E. Cantine", written over a horizontal line.

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